

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.2867 OF 2006

The Canara Bank Petitioner

Versus

Mr.Kishore Rewachand Mulani & Ors. ..Respondents

Mr.Milind G.Vasudeo with Mr.Ashish S.Panikkar, Mr.Girish
Thakur i/b M/s. Khaitan & Jayakar for petitioners

Mr.J.a.Karia with Ms Sheela Rao for respondents

CORAM : P.V.KAKADE, J.

DATE : 26TH APRIL, 2006

P.C.:

MENTIONED NOT ON BOARD

1. By consent of both the parties the matter is
taken up for final hearing.

2. Rule, rule made returnable forthwith.

3. Advocate for the respondents appear and waives service.

4. The petitioner-defendant has taken exception to the order passed by the trial court in pending trial in L.E. & C. Suit No.23/323 of 1981 rejecting the application for cross examination of plaintiffs' witness no.4 whose examination in chief was complete and he was to be cross-examined.

5. After hearing both the parties, it appears that the trial court rejected the application on the ground that the petitioner had repeatedly sought adjournment and therefore, the trial court was of the view that it was nothing but a delaying tactics. The learned counsel for the petitioner today assures the court that they will meticulously proceed with the matter without seeking further adjournment for cross examination of the witnesses.

6. In view of this position, rule is made absolute. The order passed by the trial court dated 17.4.2006 on application for adjournment for cross-examination is

hereby set aside. The trial court is directed to allow the defendant to cross examination of PW-4. I am told that the court has already fixed the date in the matter which is at 2.30 p.m. on 2.5.2006. Therefore, at that time the court shall take up the matter and issue necessary directions. It is hereby directed that the defendant henceforth shall be more diligent in cross examining the witnesses and proceed with the matter so as to avoid such situation again. With this direction the petition stands disposed of with no order as to costs.

7. The trial court is further directed to adjudicate the suit on merits so as to dispose it off within six months from the date of this order.